IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF WEST VIRGINIA

NICHOLAS HENDRICKS, **Plaintiff,** **v.** **CORDIS CORPORATION, a corporation; and CARDINAL HEALTH 105, INC., a corporation,** **Defendants.**	**Case No. _____** ***Removed from the Circuit Court of Raleigh County, West Virginia Beckley Division***

NOTICE OF REMOVAL OF ACTION PURSUANT TO §§ 1332, 1441, AND 1446 BY DEFENDANTS CORDIS CORPORATION AND CARDINAL HEALTH 105, INC.

EXHIBIT A

(/DEFAULT.ASPX)

Civil
Case Information
Tenth Judicial Circuit of Raleigh County

18-C-415
Judge: ROBERT A. BURNSIDE, JR
NICHOLAS HENRICKS VS. CORDIS CORPORATION

Plaintiff(s)	Plaintiff Attorney(s)
HENRICKS, NICHOLAS	TIMOTHY P. LUPARDUS

Defendant(s)	Defendant Attorney(s)
CARDINAL HEALTH 105, INC	
CORDIS CORPORATION	N/A

Date Filed: 09/21/2018
Case Type:
Appealed: 0
Final Order Date: N/A
Statistical Close Date: N/A

Line	Date	Action / Result
0001	09/21/2018	CASE FILED/ ISSUED SUMMONS & COMPLAINT/ MAILED BACK TO ATTORNEY
0002		FOR SERVICE. AP (LS)
0003	10/02/2018	REC RET OF SERV "ACCEPTED" BY SEC OF STATE ON BEHALF OF
0004		CARDINAL HEALTH ON 9/26/18 (AMY) (LS)
0005	10/02/2018	REC RET OF SERV "ACCEPTED" BY SEC OF STATE ON BEHALF OF
0006		CORDIS CORPORATION ON 9/26/18 (AMY) (LS)

CT Corporation

Service of Process Transmittal

10/01/2018
CT Log Number 534150894

TO: Alicia Cautela
Cardinal Health, Inc.
7000 Cardinal Pl
Dublin, OH 43017-1091

RE: **Process Served in Ohio**

FOR: Cardinal Health, Inc. (Domestic State: OH)

ENCLOSED ARE COPIES OF LEGAL PROCESS RECEIVED BY THE STATUTORY AGENT OF THE ABOVE COMPANY AS FOLLOWS:

TITLE OF ACTION:	NICHOLAS HENDRICKS, Pltf. vs. CORDIS CORPORATION and CARDINAL HEALTH 105, INC., Dfts. // To: CARDINAL HEALTH *Name discrepancy noted.*
DOCUMENT(S) SERVED:	Letter, Summons, Complaint
COURT/AGENCY:	RALEIGH COUNTY - CIRCUIT COURT, WV Case # 18C415B
NATURE OF ACTION:	Product Liability Litigation - Manufacturing Defect - Optease Filter
ON WHOM PROCESS WAS SERVED:	C T Corporation System, Columbus, OH
DATE AND HOUR OF SERVICE:	By Certified Mail on 10/01/2018 postmarked on 09/27/2018
JURISDICTION SERVED :	Ohio
APPEARANCE OR ANSWER DUE:	Within 30 Days after service of this summons, exclusive of the day of service (Document(s) may contain additional answer dates)
ATTORNEY(S) / SENDER(S):	Timothy P. Lupardus Lupardus Law office Post Office Box 1680 Pineville, WV 24874 304-732-0250
ACTION ITEMS:	CT has retained the current log, Retain Date: 10/02/2018, Expected Purge Date: 10/07/2018 Image SOP Email Notification, Laura Garza laura.garza@cardinalhealth.com Email Notification, David Orensten david.orensten@cardinalhealth.com Email Notification, Corey Goldsand corey.goldsand@cardinalhealth.com Email Notification, Cindy Fricke cindy.fricke@cardinalhealth.com Email Notification, Joshua Stine joshua.stine@cardinalhealth.com Email Notification, Alicia Cautela alicia.cautela@cardinalhealth.com

CT Corporation

Service of Process Transmittal

10/01/2018
CT Log Number 534150894

TO: Alicia Cautela
Cardinal Health, Inc.
7000 Cardinal Pl
Dublin, OH 43017-1091

RE: **Process Served in Ohio**

FOR: Cardinal Health, Inc. (Domestic State: OH)

Email Notification, Mary Donahue mary.donahue@cardinalhealth.com

SIGNED: C T Corporation System
ADDRESS: 4400 Easton Commons Way
Suite 125
Columbus, OH 43219
TELEPHONE: 617-531-5859

CERTIFIED MAIL

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Mac Warner
Secretary of State
State of West Virginia
Phone: 304-558-6000
886-767-8683
Visit us online:
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CARDINAL HEALTH
CT CORPORATION SYSTEM
4400 EASTON COMMONS WAY
SUITE 125
COLUMBUS, OH 43219

Control Number: 226196

Defendant: CARDINAL HEALTH
4400 EASTON COMMONS WAY
SUITE 125
COLUMBUS, OH 43219 US

Agent: CT CORPORATION SYSTEM

County: Raleigh

Civil Action: 18-C-415

Certified Number: 92148901125134100002393486

Service Date: 9/26/2018

I am enclosing:

1 summons and complaint

which was served on the Secretary at the State Capitol as your statutory attorney-in-fact. According to law, I have accepted service of process in the name and on behalf of your unauthorized foreign corporation.

Please note that this office has no connection whatsoever with the enclosed documents other than to accept service of process in the name and on behalf of your unauthorized foreign corporation as your attorney-in-fact. Please address any questions about this document directly to the court or the plaintiff's attorney, shown in the enclosed paper, ***not to the Secretary of State's office****.*

Sincerely,

Mac Warner

Mac Warner
Secretary of State

SUMMONS

Circuit Court of Raleigh County, West Virginia

Civil Action No. 18-C- 415-B

NICHOLAS HENDRICKS
Plaintiff

v.

SUMMONS

CORDIS CORPORATION and
CARDINAL HEALTH 105, INC.,
Defendant

To: ***CARDINAL HEALTH***
CT Corporation System
4400 Eastern Commons Way
Suite 125
Columbus, Ohio 43219

IN THE NAME OF THE STATE OF WEST VIRGINIA, you are hereby summoned and required to serve upon Timothy P. Lupardus, plaintiff's attorney, whose address is P.O. Box 1680 Pineville, West Virginia 24874, an answer, including any related counterclaim you may have, to the complaint filed against you in the above-styled civil action, a true copy of which is herewith delivered to you. You are required to serve your answer within 30 days after service of this summons upon you, exclusive of the day of service. If you fail to do so, judgement by default will be taken against you for the relief demanded in the complaint and you will be thereafter barred from asserting in another action any claim you may have which must be asserted by counterclaim in the above-styled action.

Date: 09-21-18

Paul N. Flanagan
Clerk of the Court

IN THE CIRCUIT COURT OF RALEIGH COUNTY, WEST VIRGINIA

NICHOLAS HENDRICKS, **PLAINTIFF,**

v. **CIVIL ACTION NO.:** 18-C-415-B

CORDIS CORPORATION and
CARDINAL HEALTH 105, INC., **DEFENDANTS.**

PLAINTIFF'S COMPLAINT AT LAW FOR MONEY DAMAGES AND DEMAND FOR JURY TRIAL

Plaintiff, Nicholas Hendricks, (hereinafter "Plaintiff"), by and through his undersigned attorney, files this, Complaint at Law for Money Damages and Demand for Jury Trial against the Defendant, Cordis Corporation and alleges as follows:

1. This is an action for damages relating to the "Defendants' development, testing, assembly, manufacturing, packaging, labeling, preparing, distribution, marketing, supplying, and/or selling the defective product sold under the name "Optease Retrievable Vena Cava Filter®" (hereinafter "Optease® Filter").

1. THE PARTIES

2. Plaintiff's date of birth is 08/16/1994. At all times relevant to this action, Plaintiff was domiciled and resided and continues to be domiciled and reside at Lynco, West Virginia, and is a citizen of Wyoming County, West Virginia.

3. Defendant Cordis Corporation is an Ohio corporation with a principal place of business located in Bentleyville, Ohio 43017, Defendant Cordis Corporation regularly conducts business in the state of Ohio, and has as its agent for service of

process, Jonathan Slain, 13 Orange Street, Chagrin Falls, Ohio 44022.

4. Cardinal Health 105, Inc., is an Ohio corporation with a principal place of business located in Dublin, Ohio, Defendant Cardinal Health105, Inc. regularly conducts business in the state of Ohio, and has as its agent for service of process, CT Corporation System, 4400 Eastern Commons Way, Suite 125, Columbus, Ohio 43219.

5. Hereinafter, each of the above Defendants shall be collectively referred to as "Defendants".

6. Defendants develop, manufacture, sell and distribute medical devices for use in various medical applications including endovascular cardiology, and surgical products throughout the United States and around the world. Defendants' products include the Optease Retrievable Vena Cava Filter®, which are used for the prevention of recurrent pulmonary embolism via placement in the vena cava.

II. STATEMENT OF VENUE AND JURISDICTION

7. Jurisdiction is proper in the this Court under the amount in controversy exceeds this Court's minimum jurisdictional requirement.

8. Venue is proper in this Court as a substantial part of the events or omissions giving rise to the claim occurred within this judicial district and the Defendants regularly conduct business in this county as their products are sold through and utilized by the medical professionals here.

III. FACTUAL BACKGROUND

9. Defendants designed, researched, developed, manufactured, tested, marketed, advertised, promoted, distributed, and sold products such as Optease® Filters that are sold to and marketed as a temporary/retrievable device to prevent, among other things, recurrent pulmonary embolism via placement in the vena cava. One such Defendants' product, the Optease® Filter, is introduced into the vena cava via a 7 or 8.5 French coaxial introducer sheath system, depending on the insertion location: femoral or jugular.

10. The Optease® Filter Set is collectively referred to herein as the Optease Filter.

11. Defendants sought Food and Drug Administration ("FDA") approval to market the Optease Filter Devise and/or its components under section 510(k) of the Medical Device Amendment.

12. Section 510(k) allows marketing of medical devices if the device is deemed substantially equivalent to other legally marketed predicate devices without formal review for the safety and efficacy of the said device.

13. An Optease® Filter, like the Optease® Filter, is a device designed to filter blood clots (called "thombi") that would otherwise travel from the lower portions of the body to the heart and lungs. Optease® Filters may be designed to be implanted, either temporarily or permanently, within the vena cava.

14. The inferior vena cava is a vein that returns blood to the heart from the lower portion of the body. In certain people, and for various reasons, thrombi travel form vessels in the legs and pelvis, through the vena cava into the lungs. Often these thrombi

develop in the deep leg veins. The thrombi as called "deep vein thrombosis" or DVT. Once the thrombi reach the lungs they are considered "pulmonary emboli" or PE. PE presents a grave risk to human life and often results in death.

15. A vena cava filter, like the Optease® Filter, is designed to prevent thromboembolic events by filtering or preventing blood clots/thrombi from traveling to the heart and/or lungs.

16. The Optease® Filter was sold and marketed as a temporary/ retrievable filter, and based on the Optease® Filter, which is a permanent filter.

17. The Optease® Filter has four (4) anchoring struts for fixation and eight (8) independent secondary struts to improve self-centering and clot trapping.

18. On or about 05/29/2009, Plaintiff was implanted with an Optease® filter known as the Optease® Filter which was designed, manufactured, marketed, distributed and sold by Cordis Corporation.

19. Plaintiff believes and thereupon alleges that following placement of the Optease® filter, he was instructed by his physician that the Optease® filter would be left in for one week and the removed as an outpatient. On 06/04/2009, Plaintiff underwent a procedure to remove the Optease® filter. The procedure had to be terminated due to the migration inferiorly of the Optease® filter. A consultation was placed with a physician at the Charleston Area Medical Center for possible transfer for Optease® filter removal. Plaintiff thereby had to undergo a second surgery and incurred additional medical costs due to the migration of the Optease® filter.

20. At all times relevant hereto, the Optease® Filter was widely advertised and promoted by the Defendants as a safe and effective treatment for prevention of recurrent

pulmonary embolism via placement in the vena cava as a temporary/retrievable device.

21. At all times relevant hereto, Defendants knew their Optease® Filter was defective and knew that defect was attributable to the design's failure to withstand the normal anatomical and physiological loading cycles exerted *in vivo.*

22. The Defendants failed to disclose to physicians, patients, or Plaintiff that its Optease® Filter was subject to not being removed/retrieved once the risk for pulmonary emboli has passed, thus placing patients at risk for injury due to breakage and migration or risk of perforation and damage to the vena cava wall. These patients also require lifetime anticoagulation medication(s) and are at high risk for hemorrhage.

23. At all time relevant hereto, the Defendants continued to promote the Optease® Filter as safe and effective even though the clinical trials that had been performed were not adequate to support long or short term efficacy.

24. The Defendants concealed the known risks and failed to warn of known or scientifically knowable dangers and risks associated with the Optease® Filter, as aforesaid.

25. The Optease® Filter is constructed of conichrome.

27. The Defendants specifically advertise the conichrome construction of the filter as a frame which "reduces the risk of fracture."

28. The failure of the Optease® Filter is attributable, in part, to the fact that the Optease® Filter suffers from a design defect causing it to be unable to withstand the normal anatomical and physiological loading cycles exerted *in vivo.*

29. At all times relevant hereto the Defendants failed to provide sufficient

warnings and instructions that would have put the Plaintiff and the general public on notice of the dangers and adverse effects caused by implantation of the Optease® Filter, including, but not limited to the design's failure to withstand the normal anatomical and physiological loading cycles exerted *in vivo* and the possibility that removal may be difficult and/or impossible without invasive procedures.

30. The Optease® Filter was designed, manufactured, distributed, sold and/or supplied by the Defendants, and marketed while defective due to the inadequate warnings, instructions, labeling, and/or inadequate testing in light of Defendants' knowledge of the products failure and serious adverse events.

31. That at all times relevant hereto, the officers and/or directors of the Defendants named herein participated in, authorized and/or directed the production and promotion of the aforementioned products when they knew or should have known of the hazardous and dangerous propensities of the said products, and thereby actively participated in the tortuous conduct that resulted in the injuries suffered by the Plaintiffs.

IV. COUNT ONE: STRICT PRODUCT LIABILITY

(Against Defendants)

32. Plaintiff repeats and re-alleges each and every allegation contained in paragraphs one through thirty-three of Sections, I, II and III of this Complaint as though specifically pled herein.

33. At all times relevant hereto, the Optease® Filter was dangerous and presented a substantial danger to patients who were implanted with the Optease® Filter

and these risks and dangers were known or knowable at the times of distribution and implantation in Plaintiff in 05/29/09. Ordinary consumers would not have recognized the potential risks and dangers posed to patients, because its use was specifically promoted to improve health of such patients. The Optease® Kilter was used by the Plaintiff and his treating physicians in a reasonably foreseeable manner.

34. The Defendants failed to provide warnings of such risks and dangers to the Plaintiff and his medical providers as described herein.

35. As a direct and proximate result of the Optease® Filter's defects, as described herein, Plaintiff suffered significant and severe injuries to his body resulting in significant expenses for medical treatment, as well as incurred a substantial loss of earnings, as well as non-economic damages.

V. COUNT TWO: NEGLIGENCE

36. Plaintiff repeats and re-alleges each and every allegation contained in paragraphs one through thirty-seven of the Complaint as though specifically pled herein.

37. At all times relevant to this cause of action, the Defendants were in the business of designing, developing, manufacturing, marketing and selling sophisticated medical devices, including the Optease® Filter.

38. At all times relevant hereto, the Cordis Corporation was under a duty to act reasonably to design, develop, manufacture, market and sell a product that did not present a risk of harm or injury to the Plaintiff and to those people receiving the Optease® Filter.

39. At the time of the manufacture and sale of the Optease® Filter, the Cordis Corporation knew or reasonably should have known the Optease® Filter:

a. Was designed and manufactured in such a manner so as to present an unreasonable risk of fracture of portions of the device.

b. Was designed and manufactured so as to present an unreasonable risk of migration of the device and/or portions of the device.

c. Was designed and manufactured to have unreasonable and insufficient strength or structural integrity to withstand normal placement within the human body; and/or,

d. Was designed and manufactured so as to present an unreasonable risk of perforation and damage to the vena cava wall.

40. Despite the aforementioned duty on the part of Cordis Corporation they committed one or more breaches of the duty of reasonable care and were negligent in:

a. Unreasonably and carelessly failing to properly warn of dangers and risks of harm associated with the Optease® Filter, specifically its incidents of fracture, migration, perforation and other failure;

b. Unreasonably and carelessly manufactured a product that was insufficient in strength of structural integrity to withstand the foreseeable use of normal placement within the human body;

c. Unreasonably and carelessly designed a product that was insufficient in strength or structural integrity to withstand the foreseeable use of normal placement within the human body;

d. Unreasonably and carelessly designed a product that presented a risk of harm to the Plaintiff and others similarly situated in that it was prone to fail.

41. As a direct and proximate cause of the Optease® filter's defects, as described herein, Plaintiff, suffered significant and severe injuries to his body resulting in significant expenses for medical treatment, as well as incurred a substantial loss of earnings, as well as non-economic damages.

WHEREFORE, the Plaintiff demands judgment against the Defendants and hereby prays that the Court enter an Order finding that Defendants, are strictly liable to your Plaintiff for all injuries and additional medical costs proximately caused by the defective product, or for all injuries proximately caused by the Defendants' negligence, fraud, breach of warranty or other wrongful conduct, said damages including but not being limited to:

1. Plaintiff's transfer to Charleston Area Medical Center;
2. Plaintiff's having to undergo and second surgery precipitated by the migration of the Optease® Filter;
2. Additional medical costs incurred due to hospitalization at Charleston Area Medical Center and the subsequent surgery;
3. Punitive damages as are appropriate against the Defendants upon the trial of this action to punish and/or discourage behavior.
5. Altogether with pre-judgement and post-judgement interest, along with attorney fees and such costs as may be assigned against the Defendants.

PLAINTIFF DEMAND A TRIAL BY JURY

NICHOLAS HENDRICKS,
BY COUNSEL

TIMOTHY P. LUPARDUS ESQ. # 6252
LUPARDUS LAW OFFICE
Post Office Box 1680
Pineville, West Virginia 24874
Phone 304-732-0250
Fax 304-732-0252
Email: tim@luparduslaw.com

(http://www.sos.wv.gov)

Defendant details

Civil action #

18-C-415 (/business/service-of-process/Home/Search?CivilActionNumber=18-C-415)

Defendant

CORDIS CORPORATION (/business/service-of-process/Home/Search?DefendantName=CORDIS%20CORPORATION%20)

Agent

JONATHAN SLAIN

Country

US - UNITED STATES

County

Raleigh

Service date

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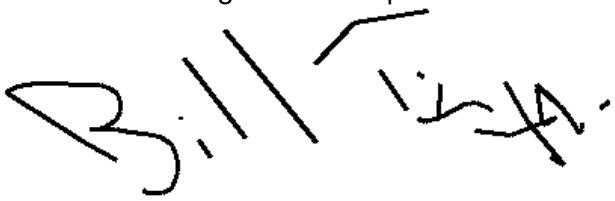

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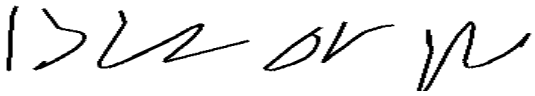

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